

1 of the outstanding equity to achieve a first mortgage
2 without a subordination, and that's a red flag in my
3 mind. That causes me concern about his ability, and
4 we're talking about Bigelow Trustee's --

5 Q. Right.

6 A. -- ability to comply with that.
7 Second, I think there's a very serious question,
8 even though in my opinion, the contract provision's
9 enforceable, based upon my experience I think it's
10 very iffy whether or not that would have legally been
11 enforced.

12 Q. Right. You don't know anything
13 about the details when Mr. Bigelow financed this
14 transaction, do you?

15 A. No.

16 Q. You don't know anything about that?

17 A. Very little.

18 Q. What do you know about it?

19 A. Well, I was told that he financed it
20 subsequently for a sum of money -- I have some notes
21 on it -- but the exact amount escapes me.

22 Q. Uh-huh. Do you know whether
23 Mr. Bigelow provided the contract to purchase to the
24 lending institution?

1 A. No.

2 Q. You don't think he concealed that
3 from them, do you?

4 A. I don't --

5 Q. You just referenced something about
6 concealing.

7 A. -- I don't know.

8 Q. All right. And you don't know
9 anything about Mr. Bigelow's ability at the time to
10 respond if Curtis would have exercised his option.
11 You don't know anything about Bigelow's finances at
12 that time, do you?

13 A. I told you everything I knew.

14 Q. Okay. But you don't know anything
15 about Bigelow's finances at the time, do you?

16 A. No. And by "Bigelow," you're talking
17 Bigelow Trustee?

18 Q. I'm talking about Bigelow Trustee,
19 and Pete Bigelow, individually.

20 A. I don't think Pete Bigelow,
21 individually, is relevant.

22 Q. Okay, fine, so let's talk about
23 Bigelow Trustee. You don't know anything about his
24 financial ability to respond if Curtis wanted to

1 exercise his option?

2 A. No.

3 Q. So isn't it fair to say that all this
4 discussion about a potential problem if Curtis would
5 have exercised the option and it might be iffy --
6 that's all speculation on your part, isn't it?

7 A. It's more than speculation. It's
8 based on my experience.

9 Q. But you don't know anything about
10 the facts of the parties to this transaction, do you,
11 in that context?

12 A. Only what my experiences teaches me.

13 Q. Right. Your experience in other
14 situations?

15 A. Correct.

16 Q. Not this one?

17 A. That's correct.

18 Q. All right. Now, you also talked
19 about, in your opinion, that the Curtises were
20 deceived?

21 A. That's my conclusion.

22 Q. Well, I wrote that in my notes;
23 deceiving him?

24 A. That's my -- I just said, that's my

1 conclusion.

2 Q. Yeah. who deceived him?

3 A. I think Bigelow and/or Meckstroth
4 and/or Christine.

5 Q. Okay. Let's start with Christine.
6 How did she deceive Mr. Curtis?

7 A. well, based upon my -- I assume that
8 she drew the purchase agreement, but I don't know
9 that. And I assume that she selected the language,
10 and based upon what I know about the series of
11 transactions, I assume that she created an expectation
12 on the part of Mr. and Mrs. Curtis that they would
13 maintain their equity in the property, and be able to
14 reacquire title within two years.

15 Q. Okay. Do you have any information to
16 indicate that Christine drafted that contract?

17 A. No.

18 Q. Okay. So that assumption's not based
19 on any facts that you have. That's an assumption?

20 A. well, it's based upon some facts
21 I have. I have in front of me a document that's
22 captioned contract to purchase, dated August 21, 1999,
23 and it appears to be a printed form. I make the
24 assumption that Mr. and Mrs. Curtis are relatively

1 unsophisticated, and that they didn't happen to have
2 this form in their possession on August 21 of 1999.

3 And based upon my understanding of the
4 facts from Counsel, I understand that she presented
5 this contract to them and selected the language.
6 I see that she signed as a witness -- and, forgive me.
7 I've been assuming that Christine was her first name,
8 and it looks like her name is Roseanne --

9 Q. Roseanne --

10 A. Yeah, Roseanne.

11 Q. -- Christian.

12 A. Roseanne Christian. Thank you.

13 Q. Sure.

14 A. And I assume, based on the series of
15 transactions that I've observed, that the Curtises had
16 an expectation that was a temporary financing device,
17 and that expectation was created by the only person
18 that could have created it, because she was the only
19 one there, to my knowledge.

20 Q. Right. So are you saying that
21 Roseanne Christian said something to them that created
22 this expectation?

23 A. I am told that she identified herself
24 as being with an eleemosynary institution there to

1 help.

2 Q. Can you define eleemosynary for me?

3 A. Okay. Well, in a non-tax sense,
4 eleemosynary --

5 Q. Yeah, I don't want to talk about
6 taxes.

7 A. Yeah, and neither do I, and so for
8 purposes of this discussion, I think that -- well,
9 let's suffice it to say that she identified her
10 representation as being somebody there to help, and --

11 Q. Right.

12 A. -- to preserve their property, and
13 that they get past this tax foreclosure hurdle that
14 they were facing.

15 Q. And what about those statements do
16 you believe weren't true?

17 A. Well, based upon what I observe,
18 I think that they never intended that they --
19 they, being Bigelow Trustee and Roseanne Christian
20 -- I don't think they ever intended that the Curtises
21 would reacquire this property.

22 Q. All right. So, are you saying that
23 when Ms. Christian presented this contract to the
24 Curtises, that she intended to deprive them of the

1 equity in their property?

2 A. That's my conclusion, yes.

3 Q. And you're basing that conclusion on
4 what information?

5 A. The documents that we have before us,
6 together with the fact that it's been represented to
7 me that the property, at the time, had a fair market
8 value of something in the order of magnitude of 75 to
9 a hundred thousand dollars.

10 Q. All right. Do you know what
11 Ms. Christian said to the Curtises when she presented
12 that contract to them?

13 A. No.

14 Q. And do you know of any of
15 Ms. Christian's writings on that contract, other than
16 her signature?

17 A. No.

18 Q. Do you know how many times
19 Ms. Christian met with the Curtises?

20 A. No.

21 Q. Do you know whether or not
22 Ms. Christian was a family friend of the Curtises?

23 A. My understanding, from Mr. Blessing,
24 was that she was somebody that they knew casually from

1 church.

2 Q. And in terms of what statements were
3 made by Ms. Christian to the Curtises, you don't have
4 any information about that, do you?

5 A. I do. Mr. Blessing has informed
6 me, as I've just described to you, that she identified
7 herself as somebody associated with an institution
8 whose purpose it was to help people in distress
9 situations such as this.

10 Q. All right. Did the Curtises need
11 some help?

12 A. Well, they were facing -- they
13 couldn't handle the tax foreclosure for about \$15,000
14 or less.

15 Q. Is that what you think the tax
16 foreclosure was; 15,000?

17 A. Well, I think there was something in
18 the order of \$10,000 due in taxes, past due taxes at
19 the time, and there were associated costs of a couple
20 thousand --

21 Q. Uh-huh.

22 A. -- or less than a couple thousand.

23 Q. Now, Mr. Blessing's helping you out
24 there a little bit.

1 A. Yeah. Actually, I didn't need the
2 help, but I see from the closing statement that I was
3 confused. They were supposed to get \$10,000 out of
4 this. They were only facing a \$4500 tax foreclosure.
5 There would have been another 4 or \$500 of costs on
6 top of that, so they were looking at something in the
7 order of magnitude of \$5,000 of crisis --

8 Q. All right.

9 A. -- and they probably had -- and I'm
10 just speculating now -- but they probably had some
11 need for some other cash for other purposes, because
12 they were supposed to get \$10,000 in cash out of this
13 property. But they were also supposed to have the
14 property repaired with regard to the porch and the
15 roof --

16 Q. We'll get to that.

17 A. -- and that, in my mind, suggests
18 an expectation on their part that they were going to
19 retain the property, because they wouldn't have cared
20 whether the porch and the roof were repaired if they
21 were going to be kicked out.

22 Q. Okay. Do you know whether or not the
23 Curtises were presented at the time this contract was
24 signed, or before it was signed, with various options

1 about whether they could do a lease option or just a
2 straight lease --

3 A. No.

4 Q. -- or a land contract? You don't
5 know about that, do you?

6 A. No.

7 Q. And you've told me everything that
8 you know about what Ms. Christian allegedly said to
9 the Curtises?

10 A. Everything that's been represented to
11 me, yes.

12 Q. Everything you know?

13 A. I don't know, anything. I'm assuming
14 those facts.

15 Q. Right.

16 A. I don't know those facts.

17 Q. Okay. The information that you have
18 about what Ms. Christian said to the Curtises, you've
19 told me everything you know?

20 A. Everything I've been told.

21 Q. All right. Who else, in your
22 opinion, deceived the Curtises?

23 A. I have no knowledge, other than what
24 I've related to you.

1 Q. All right. Well, do you believe that
2 Mr. Meckstroth deceived the Curtises?

3 A. Yes.

4 Q. And in what regard?

5 A. There's a pattern here. He conducted
6 a closing a few days -- just four days after this
7 purchase contract, when the Curtises were supposed to
8 get some kind of document representing their rights
9 of possession. They were supposed to get \$10,000 in
10 cash. They got neither. He charged them \$295 to
11 draw a land contract, and it's an artfully drawn land
12 contract, but he didn't bother to get it signed.

13 And I've heard your explanation that
14 that would have interfered with subsequent mortgage
15 financing, but that doesn't compute in my mind, or
16 based on my experience.

17 I think that -- I've seen Meckstroth
18 involved in three transactions -- I think three
19 transactions, several transactions -- and if they
20 hadn't been conducted the way they were conducted,
21 what happened here wouldn't have happened.

22 Q. All right. Deception, to me, means
23 a misrepresentation of fact. Right? Do you agree
24 with that?

1 A. I think that fraud connotes
2 misrepresentation of a material fact made by somebody
3 intending reliance, which, in fact, resulting in
4 damage to the representee.

5 Q. All right. That's a -- let's use
6 your definition. That's better than mine. Okay?

7 A. It's not mine. It's the Ohio Supreme
8 Court's.

9 Q. All right. So, what material
10 misrepresentations of fact did Mr. Meckstroth make to
11 the Curtises?

12 A. You understand that it can be
13 a representation or a failure to disclose when
14 disclosure is required by the circumstances, either
15 one results in fraud --

16 Q. All right, okay.

17 A. -- and I think that based on my
18 understanding of the facts -- first of all, they,
19 the Curtises, were supposed to have walked away from
20 that closing with \$10,000, and they walked away with
21 something about 9,5.

22 Q. All right. That's because
23 Mr. Meckstroth charged them for the land contract?

24 A. No, that's because he closed the

1 transaction inconsistent with the contract to
2 purchase.

3 Q. All right. Okay. So that's one
4 thing that -- that's one deception of Meckstroth?

5 A. Yeah, but much more important --

6 Q. All right.

7 A. -- was the fact that they walked out
8 of there without a signed -- I think it should have
9 been a land contract, because that's what he drew
10 and that's what they paid for, and that would have,
11 in my mind, satisfied the requirements of the purchase
12 contract, even though the purchase contract calls for
13 a lease option.

14 But, a lease option, you know -- but
15 I would have no quarrel in that regard with
16 Mr. Meckstroth if he had seen to it that there was
17 a lease option. There wasn't that, either.

18 Q. Right, right. Okay.

19 A. At least a recordable lease option.

20 Q. Okay. So you blame Mr. Meckstroth
21 for not making sure there was either an executed lease
22 option, or an executed land contract?

23 A. Correct. They wouldn't have gotten
24 themselves into the trouble that they did had they had

1 an executed and recorded document.

2 Q. But you think that was Meckstroth's
3 obligation to make sure that happened?

4 A. Correct.

5 Q. All right. And did Meckstroth
6 deceive the Curtises in any other regard, other than
7 what we've talked about?

8 A. Not to my knowledge.

9 Q. Okay. Let's talk about Bigelow now.
10 How did Bigelow deceive the Curtises?

11 A. Well, I surmise, based on the facts
12 as presented to me, that Roseanne Christian and
13 Bigelow together intended to approach borrowers who
14 were vulnerable, who had -- excuse me -- property
15 owners who had substantial equity and who were in
16 distress situations and who were vulnerable, into
17 acquiring title to their property -- a series of
18 transactions by which they acquired title to the
19 owners' property for substantially less than fair
20 consideration -- or substantially less than full
21 and adequate consideration -- intending that at least
22 in the vast majority of them that they would wind
23 up with the former owners' equity in the property.

24 Q. Okay. I want to talk about the

1 Curtises now. Okay. You just said "vast majority."

2 How did Bigelow deceive the Curtises?

3 A. Well, I think that based on the facts
4 as represented to me, Christian was Bigelow's agent,
5 and through Ms. Christian, he acquired title to this
6 property for far less than fair value. He got into
7 this thing for about \$15,000 and acquired a fee simple
8 absolute ownership and property for \$15,432.24, when
9 the property was worth something in the order of 75
10 to a hundred thousand dollars -- free of a pragmatic
11 equity on the part of the Curtises in the property.

12 Q. Pragmatic; what's the pragmatic
13 equity?

14 A. Well, you have a theory that they
15 could have enforced this contract provision for a
16 lease option, but my experience teaches me that that
17 would have been a long shot. That, as a practical
18 matter, that wouldn't have happened. As soon as he
19 transferred title to the property with third party,
20 he, as Trustee, transferred title of the property to
21 third party or mortgaged the property, that would have
22 been the pragmatic impossibility.

23 Q. Uh-huh. We can agree, though, can't
24 we, that if Bigelow Trustee hadn't transferred --

1 well, we already talked about that.

2 Now, have you told me everything that
3 you're going to say about Bigelow deceiving the
4 Curtises, that it was through Roseanne Christian?

5 A. I -- if you ask me other questions,
6 I'll try to respond, but I don't have any --

7 Q. All right. Let me -- that was a
8 bad question. We've already talked about Roseanne
9 Christian, and your opinions about her.

10 Other than your opinions about
11 Ms. Christian deceiving the Curtises, do you have
12 any opinions about Mr. Bigelow deceiving the Curtises,
13 separate and apart from what Ms. Christian did, or did
14 not do?

15 A. I have no knowledge of any direct
16 communications between Mr. Bigelow and the Curtises,
17 but I presume -- but do not know -- but presume that
18 he was present at the closing, and somehow he walked
19 away from the closing with the title to a hundred
20 thousand dollar property for \$15,000 cash, and no
21 executed land contract.

22 Now, how he got to that point, I can only
23 speculate, and my speculation is that he encouraged
24 the Christians (sic) to proceed with the transaction

1 with the expectation that they would somehow reacquire
2 the property, knowing that that expectation was
3 unrealistic.

4 If they couldn't handle a \$5,000 tax
5 problem, they couldn't reacquire -- they couldn't come
6 up with \$37,000 to reacquire the property.

7 I was also told that subsequent to the
8 closing, he spent only \$3,000 on repairing -- or
9 a small sum, such as that, repairing the roof and
10 porch, which is relevant to this discussion, because
11 I surmise from the purchase contract that the Curtises
12 had an expectation that most of the difference between
13 the \$5,000 paid to third parties at the closing and
14 the \$9500 they received at the closing -- roughly
15 \$15,000 -- most of the difference between that number
16 and 37,000, or at least a substantial part of that,
17 say, something at least \$20,000 -- would have been
18 used to repair the roof and the porch.

19 Q. But you're assuming that, right?

20 A. I am assuming that for a variety
21 of reasons. One is, is that it's consistent with my
22 experience, and another is that it explains to me
23 where the \$37,000 comes from. It certainly doesn't
24 come from the value of the property.

1 Q. Because in your opinion, the fair
2 market value of the property was a hundred thousand?

3 A. I'm told -- let me say two things:
4 Number 1, I'm told that it was between 75,000 and a
5 hundred thousand, and, Number 2, I generally know that
6 neighborhood.

7 Q. And Mr. Blessing told you that it was
8 between 75 and a hundred?

9 A. Correct. But that's consistent with
10 my personal knowledge. For a number of years I lived
11 on Wold Avenue, which is just several blocks away.

12 Q. Okay. In terms of representations or
13 statements --

14 MR. BLESSING: Gary, did you see that
15 note?

16 MR. LEWIS: Oh, no, I didn't. I'm sorry.

17 MR. BLESSING: Do you want to take a
18 break?

19 MR. LEWIS: Yes. I've got to make a phone
20 call.

21 (Brief break was taken.)

22 BY MR. LEWIS:

23 Q. All right. Mr. Lerner, just a couple
24 more questions about this e-mail dated, what is it --

1 A. January 9.

2 Q. -- that's in your binder. There's a
3 sentence in there where Mr. Blessing is telling you
4 that your testimony in this case will be consistent
5 with the opinions you expressed in the Burbrink case.
6 Do you see that in there?

7 A. It says, and I quote, "I sent your
8 deposition (taken in the previous state court case)
9 to Gary Lewis, current lawyer for Bigelow, and I told
10 him your testimony would be consistent with what is
11 stated in that deposition."

12 Q. All right. And did Mr. Blessing get
13 that information from you? Did you tell him that your
14 testimony would be consistent in this case with the
15 testimony you gave in Burbrink?

16 A. No. This is on January 9, when I was
17 not then familiar with this case.

18 Q. Right. So as of then, you didn't
19 have any idea what your testimony was going to be in
20 this case, did you?

21 A. Right. At that point in time,
22 I don't know that I knew -- ever heard of Curtis.

23 Q. All right. And you reviewed your
24 deposition transcript, didn't you, on the Burbrink

1 matter?

2 A. Subsequent to January 9.

3 Q. And you didn't even talk about the
4 Harry Curtis transaction in that transcript, did you?

5 A. No, but I did talk about a scheme,
6 a pattern, which is consistent with the Curtis case.

7 Q. Okay. And we've already discussed
8 that pattern. We've talked about that, haven't we?

9 A. We have discussed it.

10 Q. What's your understanding of when
11 Mr. Curtis acquired title to the property?

12 A. I have no understanding except that
13 he owned it in August of '99.

14 Q. Right. But you don't have any idea
15 when he took title?

16 A. Well, no, I do have an idea that
17 it wasn't long before that, but that idea is a
18 speculation on my part, based on one notation in the
19 closing statement.

20 Q. Okay. So what's your definition
21 of not long before that? Ballpark that for me.

22 A. I'm speculating --

23 Q. All right.

24 A. -- that he acquired it by

1 inheritance, because there's a -- he's charged \$28.50
2 for recording a certificate of transfer and affidavit.
3 I don't know the details behind that, but you
4 understand, I understand, a certificate of transfer
5 is a document, the function of which is to advise
6 the county auditor to transfer the records on the
7 tax records. It does not relate to when the title
8 transfers.

9 Q. Right. But you believe he acquired
10 legal title to the property shortly before he sold it?

11 A. No, I don't have that understanding.
12 I understand that he owned it in August of '99.

13 Q. You don't have any idea when he
14 acquired title, do you?

15 A. That's what I told you before.

16 Q. And at that time when Mr. Curtis
17 acquired title to the property, do you know what the
18 fair market value of the property was?

19 A. Well, since I don't know when he
20 acquired it, no, but I know the neighborhood, and I
21 can't imagine that it wasn't in the magnitude that
22 we've talked about earlier.

23 Q. Okay. It makes a difference in terms
24 of fair market value. I'm asking you at the time that

1 he acquired title to the property, do you know what
2 the fair market value was?

3 A. No.

4 Q. And do you know whether or not
5 between the time that he acquired title to the
6 property and the time that he sold it to Mr. Bigelow,
7 whether there were any judgments taken against
8 Mr. or Mrs. Curtis?

9 A. No.

10 Q. Was Curtis married at the time he
11 acquired the property?

12 A. It would appear so from the purchase
13 contract, but that's speculation on my part.

14 Q. Okay. So at the time that
15 Mr. Curtis acquired the property, do you know how much
16 equity was in the property?

17 A. My understanding is substantial.

18 Q. How much?

19 A. Well, if I assume that the property's
20 worth a hundred thousand dollars, there's something in
21 the order of \$90,000 of equity in the property.

22 Q. So, it's your understanding that at
23 the time Harry Curtis acquired this property, he had
24 \$90,000 worth of equity in it? Is that what you're

1 saying?

2 A. I'm saying that -- no. I'm saying
3 that in August of '99, it would appear that he had
4 that much equity in it.

5 Q. All right. So it's your opinion,
6 then, that in August of '99, Mr. Curtis had \$90,000,
7 approximately, equity in the property?

8 A. That is not my opinion. I am saying
9 that it would appear that. I told you that I didn't
10 know whether there were other encumbrances against the
11 property. My understanding -- my assumption is that
12 there were not.

13 Q. All right. Do you have an
14 understanding as to how much equity Mr. Curtis had in
15 the property as of 1999?

16 A. My understanding -- yes. My
17 understanding is that he had substantial equity in the
18 property, the exact magnitude of which I do not know.

19 Q. All right. Approximate it for me,
20 please.

21 A. Fifty to 75,000 -- 50 to 90,000.

22 Q. And how did you arrive at that?

23 A. I deducted 5,000 in taxes from a
24 presumed fair market value of 75 to a hundred thousand

1 dollars.

2 Q. And that 75 to a hundred is what
3 Mr. Blessing told you, right?

4 A. It is what Mr. Blessing told me, but
5 it's also consistent with my personal observation.

6 Now, understand I'm not an expert on real
7 estate values, but I did live in the neighborhood
8 and I've closed a lot of transactions, and I know the
9 values, generally.

10 Q. All right. The Hamilton County
11 auditor does appraisals of real estate in Hamilton
12 County, don't they?

13 A. In my opinion, not very well.

14 Q. Okay. Well, are you aware of what
15 the Hamilton County auditor's appraisal was for this
16 property in 19 --

17 A. No.

18 Q. Well, let me finish. -- in 1999?

19 A. No, but I wouldn't give it much
20 credence, anyway.

21 Q. Okay. Are you aware -- you're not
22 aware of what the auditor's appraisal was for '99,
23 correct?

24 A. That's correct.

1 Q. All right. And so you didn't check
2 it as part of your job in this case?

3 A. That's correct.

4 Q. When Mr. Bigelow financed this
5 transaction, were you aware that there was an
6 appraisal done at that time?

7 A. Was I aware? No. Did I assume?
8 Yes.

9 Q. Okay. So you were aware that there
10 was an appraisal out there that was done at that time?

11 MR. BLESSING: Excuse me?

12 Q. I'm sorry; I -- I'm sorry. I wasn't
13 trying to mischaracterize. You assumed there was?

14 A. My information is that Mr. Bigelow
15 Trustee sold the property for \$95,000. I'm not even
16 sure that I have actual knowledge of -- that he
17 mortgaged the property. He may have. I don't know
18 that.

19 Q. All right. So now I'm confused.
20 Did you assume there was an appraisal done when
21 Bigelow financed the purchase or not?

22 A. I'm not even sure that he did finance
23 it.

24 Q. All right.

1 A. But if he financed it, there would
2 have been an appraisal. If he mortgaged the property
3 -- I didn't search the title -- if he mortgaged the
4 property conventionally, lenders traditionally would
5 require an appraisal. Those appraisals aren't too
6 impressive, either.

7 Q. Okay. So you don't think the
8 auditor's appraisal's reliable, and you don't think
9 that an appraiser's appraisal would be reliable in
10 this situation either, right?

11 A. Well, it depends on who the appraiser
12 is.

13 Q. Okay. And you have elected to rely
14 on what Mr. Blessing's told you?

15 A. Well, it was consistent. First of
16 all, it's consistent with my personal observation,
17 and, second of all, I was told that he resold the
18 property a year or two later for \$95,000, and it's
19 consistent with that.

20 Q. Was there any material change in the
21 property between the time Mr. Bigelow took title and
22 the time that Mr. Bigelow sold it?

23 A. I was told that there was a fire
24 and that Mr. Bigelow recovered \$65,000 in fire

1 insurance proceeds, and spent \$33,000 to repair the
2 property, and spent another \$3,000 in October of '99
3 to repair the roof and the porch.

4 Q. Did you take that into consideration
5 in determining the fair market value of the property?

6 A. I didn't determine fair market value.
7 I assumed an order of magnitude.

8 Q. What's that mean that you assumed an
9 order of magnitude?

10 A. As I've told you three or four times
11 today, I assumed that the property was worth something
12 in the order of 75 to a hundred thousand dollars.

13 Q. Okay. Do you know that Mr. Curtis
14 testified in his deposition about what he thought the
15 fair market value was?

16 A. No.

17 MR. BLESSING: Did you ask him previously
18 if he had seen the deposition, or read it?

19 THE WITNESS: Yeah, he did ask me that.

20 BY MR. LEWIS:

21 Q. Did Mrs. Curtis have some sort of
22 ownership interest in this property?

23 A. I don't know, but I assume not.

24 Q. And why are you making that

1 assumption?

2 A. Well, because it appears from the
3 closing statement -- which I've marked with this
4 marker -- that the property was acquired by intestate
5 succession --

6 Q. Inheritance.

7 A. Inheritance. -- and it would be
8 based on my experience, uncommon that he might have
9 succeeded to this property by inheritance and his wife
10 participated in that succession.

11 Q. Okay. Let's assume she didn't
12 inherit an interest in the property.

13 A. I would assume that one or the other
14 of them -- based on the facts that I do have available
15 to me -- I would assume that one or the other of them
16 owned it entirely.

17 Q. All right. Let's assume that he
18 inherited it and she didn't -- Are you with me?

19 A. Sure.

20 Q. -- at the time he inherited the
21 property.

22 A. Sure.

23 Q. Now, if the property appreciates in
24 value from the time that he inherits it and they're

1 married during that time, does she have an ownership
2 interest in the property by virtue of the marital
3 relationship?

4 A. She has a statutory right in lieu of
5 dower.

6 Q. All right. Other than dower, does
7 she have any other right?

8 A. It's not dower. It's a statutory
9 right in lieu of dower.

10 Q. All right. Can we just call it
11 dower?

12 A. If you call it dower, I won't --

13 Q. Let's just call it dower.

14 A. Fine, fine. I'm not -- I don't do
15 domestic relations work, but my understanding of
16 the law is that she wouldn't have something in that
17 context that would result from his inheritance, but my
18 understanding, pragmatically is, is that's often not
19 the case.

20 Q. Right. And I'm talking about the
21 appreciation in value now.

22 A. I'm talking -- yeah. My
23 understanding, depending on a lot of factors not known
24 to me at this time, my understanding is that if one

1 spouse inherits property and that property remains
2 titled in that one spouse, that the other spouse does
3 not participate in the appreciation. But if they live
4 together as a marital community in that property, then
5 I believe that domestic relations courts would take
6 that appreciation into account --

7 Q. All right.

8 A. -- notwithstanding my opinion of the
9 law.

10 Q. You testified in the Burbrink case
11 that before foreclosure suits -- and I can get you
12 a page reference if you need it -- that before a
13 foreclosure suit would be filed based on unpaid taxes,
14 that a number of letters would be sent to the
15 homeowner by the county; is that --

16 A. I don't recall that testimony.

17 Q. Maybe this is just my question.
18 okay, strike that. I'm sorry.

19 Is it your experience that before the
20 county files foreclosure for unpaid taxes, that they'd
21 send a number of deficiency letters to the homeowner
22 and ask them to remedy the deficiency?

23 A. I don't have experience in that
24 subject.